



GA 888/96

(2)

/- APPEAL OF PRISONER -/

Division Bench (Criminal)

No. 324 Name लक्ष्मीनाथ
 Father's Name गुन्धर Residence गाँव - तारवा लोड
 Age 40 Sentenced to आजीवन कारावास / दो वर्ष on 3.1.96
 under Section 302, 324 I.P.C. by I.S.J. A.S.J.

S.T.No. 182 / 93

It is explained to the prisoner that if he states or wishes to be represented by a legal practitioner the Appellate Court will not proceed with the case for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may be heard at all if the prisoner states that he does not wish to be represented by legal practitioner the Court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1. Date of application for copy of Judgement: No.
2. Date of which copy received:- 3.1.96
3. Date on which Appellant:- 1.96
4. Whether the prisoner wished to be represented or not Yes/No.

No. 324 Name लक्ष्मीनाथ पिता गुन्धर

Continued in जिला Jail जगदलपुर

No. 209 1 octagon / 96 Dated 10/1/96

Forwarded to the CHIEF JUDICIAL MAGISTRATE Jagdalpur together with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

Sentenced by महाराष्ट्र

under Section Superintendent General / Distt. / Sub Jail

Date of receipt in C.J.M's Office. 25/1/96
 Date of receipt of record of accompany.
 Memo of Appeal of the Appellate Court.
 No. 2 Dated 29/1/96

Forwarded to the Hble. J.S., Jagdalpur

C.J. Magistrate 29/1/96

Date of receipt of Appellate Court with the file

Date of receipt of Appellate Court

Whether the prisoner wished to be represented or not

No.

Continued in

Date

आदेश पत्रक

मामला क्रमांक Cr. P.P. 888/96 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>DIVISION BENCH:</u> <u>HON'BLE MR. L.C. BHADOO &</u> <u>HON'BLE MR. DHIRENDRA MISHRA. JJ</u> <u>1.3. 2006</u> Mr. B.D. Badgaiya, Advocate for the appellant. Mr. U.N.S. Deo, Additional Public Prosecutor with Mr. M.P.S. Bhatia, Panel Lawyer for the State. Oral judgment dictated on <i>Dais</i>. <u>Per L.C. Bhadoo, J</u> By this appeal under Section 374 (2) of the Cr.P.C. accused Laxminath has questioned the legality & correctness of judgment of conviction and order of sentence dated 3.1.1996 passed by learned 1st Additional Sessions Judge, Jagdalpur in Sessions Trial No.182/93, whereby learned Additional Sessions Judge after holding the accused/appellant guilty for committing murder of Gangadei convicted him under Sections 302 & 324 of the I.P.C and sentenced to undergo imprisonment for life and imprisonment for two years respectively. The prosecution case, in brief, is that Mahgin Bai (PW-1) lodged the F.I.R. (Ex.P-1) in the Police Station Bhairamgarh on 4.2.1993 at about 12.30 p.m. to the effect that on 3.2.1993 she was thrashing paddy in the house, at that time her mother-in-law Gangadei was preparing page.	

[पीछे देखिये]

आदेश पत्रक

मामला क्रमांक सन् 2009

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Accused Laxminath, who is husband of her sister-in-law, came and demanded page, on which her mother-in-law gave page to the accused, then he demanded tobacco, on which her mother-in-law gave him tobacco also and accused left the house. Thereafter, the accused came with bow & arrow and shot the arrow on her, which hit on her left upper arm and blood started oozing out of it. Accused also shot an arrow on her mother-in-law, which hit on her chest, blood started oozing out of the injury and accused ran away. Her uncle-in-law Dhaniram (PW-2) witnessed the incident, brought the villagers and by that time, her mother-in-law was alive. Arrow was stuck in the chest of her mother-in-law. Villagers took her mother-in-law to Police Station Bhairamgarh from where they took her to Jagdalpur hospital, but on the way near Mawlibhata Gangadei succumbed to the injury. Receiving this report, the police registered the FIR (Ex.P-1), the Investigating Officer left for the scene of occurrence and took into possession the bow under Ex.P-2. The Investigating Officer gave a written request Ex.P-3 to the Assistant Surgeon, Primary Health Centre, Bhairamgarh for examination of the injuries of Mahgin Bai, on which doctor examined and prepared the injury report and mentioned that there was one incised wound over left upper arm. Arrow, weapon of offence was taken into possession under Ex.P-4 and the petticoat of deceased Gangadei was taken into possession under Ex.P-5. Blood stained soil and plain soil was taken into	

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आदेश पत्रक

मामला क्रमांक सन् 200

विरुद्ध

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	-3-	
	possession under Ex.P-6 from the place of occurrence. Arrow in question was examined by the doctor on the request of Station House Officer Ex.P-7 and doctor opined that the injury on the body of Mahgin Bai could be caused by the said arrow. Panchnama (Ex.P-10) of the body of Gangadei was prepared after giving notice Ex.P-9 to the Panchas. Postmortem on the body of deceased Gangadei was conducted by Dr. S.K. Naik and he prepared the post mortem report. After completion of investigation, charge sheet was filed against the accused/appellant in the Court of learned Additional Chief Judicial Magistrate, Jagdalpur, who in turn committed the case to learned Sessions Judge, Jagdalpur from where learned 1st Additional Sessions Judge, Jagdalpur received the case on transfer for trial. The prosecution in order to establish the offence against the accused/appellant examined seven witnesses. On the other hand, learned Additional Sessions Judge recorded the statement of accused/appellant under Section 313 of the Cr.P.C. in which he denied the material appearing against him in the prosecution evidence and stated that he is innocent and has been falsely implicated in the crime. Learned Additional Sessions Judge after hearing the arguments of Additional Public Prosecutor and counsel for the accused convicted & sentenced the accused in the manner as mentioned in Para 1 of this judgment.	

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आदेश पत्रक

मापला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — ५ —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	We have heard Mr. Badgaiya, Advocate for accused/appellant, Mr. Deo, Additional Public Prosecutor with Mr. Bhatia, P.L. for the State. Homicidal death of deceased Gangadei is not in dispute. As far as the involvement of accused/appellant in committing the crime in question is concerned, PW-1 Mahgin Bai is none else but the daughter-in-law of the deceased and crime in question was committed at about 11.00 a.m. therefore, her presence in the house cannot be doubted. Even her presence is established from the fact that she herself received the arrow injury on her left upper arm. She has stated that accused came to her house and demanded page, which was supplied to him by her mother-in-law, then he demanded tobacco, which was also supplied to him by her mother-in-law and he left the house. Thereafter, accused came with bow & arrow and shot the arrow on her, which hit on her left upper arm, as a result of which blood started oozing out of it. Then the accused shot the arrow on Gangadei, which hit on her chest, as a result of which the blood started oozing out of it. Gangadei was alive, therefore, she was taken to the Police Station Bhairamgarh there she lodged the report Ex.P-1. Mahgin Bai (PW-1) has also stated that crime in question was witnessed by Dhaniram (PW-2), who has corroborated the evidence of Mahgin Bai and stated that accused shot the arrow on Gangadei, which hit on her chest, as a result of which she died. PW-6 Sukhdeo has further stated that when Gangadei was brought to Bhairamgarh she was alive and on his enquiry	

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मामला क्रमांक सन् 200

विरुद्ध

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	-5- Gangadei informed that arrow was shot by Laxminath which hit on her chest. Moreover, it has come in the evidence that accused being the son-in-law of deceased Gangadei, borrowed paddy from Subran, husband of PW-1 Mahgin Bai and when Subran asked the accused to return the same, it enraged the accused and that is why he came with bow & arrow and attacked Mahgin Bai & Gangadei. Therefore, in view of the above evidence of eyewitnesses and oral dying declaration made by the deceased before PW-6 Sukhdeo, it is established that the accused was the author of injury on left upper arm of Manghin Bai and also of the injury inflicted on the chest of deceased. Accordingly, it is established that the accused was the author of crime and looking to the manner in which the accused shot dead Gangadei by shooting an arrow on her chest, a vital part of the organ, which pierced between 6th & 7th ribs, same were found fractured and the death of Gangadei was caused by syncope as a result of shock due to incised wound injury to liver and massive bleeding, we do not find any illegality or infirmity in the judgment of trial court and there is no ground to interfere with the judgment of the trial court In the result, the appeal being devoid of merit is liable to be dismissed and accordingly, it is dismissed.	Sd/- Dhirendra Mishra Judge

Sd/-
L.C.BHADOO
Judge

Sd/-
Dhirendra Mishra
Judge

[पीछे देखिये]

9.3.2006